IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE, TENNESSEE

WORD MUSIC, LLC., a Tennessee Limited Liability company, DAYSPRING MUSIC, LLC, a Tennessee Limited Liability Company, WORDSPRING MUSIC, LLC., a Tennessee Limited Liability company, UNICHAPPELL MUSIC, INC., a Delaware corporation, CHAPPELL & CO., INC., a Delaware corporation, COTILLION MUSIC, INC., a Delaware Corporation, RIGHTSONG MUSIC, INC., a Delaware Corporation, WALDEN MUSIC, INC., a New York Corporation, WARNER/TAMERLANE PUBLISHING CORP., a California corporation, and WB MUSIC CORP., a California corporation,

Plaintiff,

vs.-

PRIDDIS MUSIC, INC., a Nevada corporation, RICHARD L. PRIDDIS, individually, PROSOUND KARAOKE LTD., a United Kingdom corporation, MEDIOSTREAM, INC., a California corporation, d/b/a "K SUPERSTAR," D.J. MILLER MUSIC DISTRIBUTORS, INC., a Colorado corporation, d/b/a "PROSING," and DALE S. MILLER, Individually

Defendants.

Case No. 3:07-cv-502

JURY DEMAND

Judge Haynes

SUPPLEMENTAL DECLARATION OF PAUL HARRISON STACEY

I, PAUL HARRISON STACEY, declare under penalty of perjury under the laws of the United States of America, pursuant to 38 U.S.C. § 1746, that the following matters are true and correct:

1. I am over the age of 21 and am competent to testify to the matters set forth below:

Dockets.Justia.com

2. I am lead litigation counsel for the Plaintiffs in the above-captioned matter and have personal knowledge of the matters set forth in this Declaration.

3. During or about late November 2006, I generally became aware of the interactive internet web site known as “KSuperstar.” At that time I was unaware of the identity of the actual owners and/or the full extent of the products/services being commercially exploited on the KSuperstar web site. At or about the same time, I had been asked by Kelly Isenberg, Director of Legal and Business Affairs at Warner Chappell Music, Inc. (“Warner/Chappell”), to investigate the Defendants Priddis Music, Inc. and Richard L. Priddis, individually, relative to undertaking litigation against those Defendants for infringement of various copyrights owned or administered by the subsidiary and/or affiliated publishing entities to Warner Chappell. On or about November 28, 2006, I generated a printout of what was purported to be the entire list of musical compositions offered as part of the KSuperstar interactive internet web site (See Group Exhibit “A” attached hereto, which is hereby incorporated and made a part hereof.).

4. In the ensuing weeks, the staff at Warner/Chappell cross-referenced the list of compositions obtained from the KSuperstar web site to determine which compositions, if any, were owned and/or administered, in whole or in part, by any of the Warner Music affiliated publishing companies.

5. I determined from scrutinizing the “K SUPERSTAR” website that it was an interactive internet website. Utilizing the unlicensed recordings provided by the PRIDDIS Defendants, MEDIOSTREAM has operated the “K SUPERSTAR interactive internet website as both a subscription service for visitors/participants to purchase the use of music, make personal recordings and share their recordings with other subscribers. MEDIOSTREAM has also used the “K SUPERSTAR” website to advertise, promote, and facilitate the sale of unlicensed

karaoke recordings of the Plaintiffs' music copyrights which were manufactured by the PRIDDIS Defendants and PROSOUND. On or about January 26, 2007, I served an initial cease and desist letter to all of the Defendants and/or their attorneys and attached thereto a list of music copyrights which had been identified as a result of the investigative and cross-referencing processes described above. (See Exhibit "B" attached hereto which is hereby incorporated and made a part hereof.)

6. I received a number of oral and written communications from the various Defendants indicating that they were complying with the cease and desist and in some instances were going out of the karaoke business altogether. Two examples are the facsimile items of correspondence from PRIDDIS MUSIC and RICHARD L. PRIDDIS, which are attached hereto, marked Group Exhibit "C". In these memos, PRIDDIS indicated he was going to "…exit the Karaoke business."

7. Notwithstanding the Defendants' representations that they were honoring the cease and desist, I continued to attempt to monitor their business activities. In March and April, 2007, I learned that the PRIDDIS Defendants and the MILLER Defendants (DJ MILLER MUSIC DISTRIBUTORS, INC., and DALE S. MILLER, individually) were still distributing, advertising and selling infringing recordings of the Plaintiffs' music copyrights. During this timeframe, Dorothy Gibbey, a paralegal at Bowen, Riley, Warnock & Jacobson, was directed by me to attempt to purchase copies of the infringing recordings manufactured by PRIDDIS and PROSOUND via the PRIDDIS and PROSING interactive, internet websites. Her successful purchases of infringing recordings are detailed in the **DECLARATION OF DOROTHY D. GIBBEY**, which is filed concurrently herewith.

8. Based upon the deceitful, misleading and bad faith conduct of the Defendants, it has become necessary to seek injunctive relief from this Court to secure the power of the law, and the penalties attendant for a violation thereof, against the Defendants to stop the willful infringement of the Plaintiffs' music copyrights.

9. On or about June 27, 2007, I searched generally the Priddis/ProSound web sites and found that those Defendants were continuing to infringe on Plaintiffs' copyrights. At the same time, I determined that the ProSound infringing recordings were continuing to be advertised, marketed and sold via the ProSing interactive interactive internet web site as well. To establish proof of the continuing violations, Dorothy D. Gibby, a paralegal at Bowen, Riley, Warnock & Jacobson, Nashville, undertook to print out the pertinent web pages demonstrating the persistent infringement of Plaintiffs' music copyrights; those web pages and specific copyrights are detailed in the **SUPPLEMENTAL DECLARATION OF DOROTHY D. GIBBY,** which is filed concurrently herewith.

10. On or about July 1, 2007, I searched the "Acekaraoke.com" and "Karaokewarehouse.com" web sites and found that those sites were continuing to advertise and sell infringing recordings made by the PRIDDIS Defendants. (See Exhibit "D" attached hereto)

I declare under penalties of perjury that the foregoing is true and correct.

Executed this _______ day of July, 2007.

____
Paul Harrison Stacey

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served via U.S. Mail, postage prepaid, upon:

this the ____ day of June, 2007.

_ s/ Timothy L. Warnock________________